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225114

May 18, 2009

E-File

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street S.W.  
Washington, DC 20423-0001

Re: STB Finance Docket No. 35206, Petition For Injunctive Relief:  
Status Report

Dear Acting Secretary Quinlan:

On February 17, 2009, BNSF Railway Company ("BNSF") filed its reply ("Reply") to the Petition For Injunctive Relief And Motion For Temporary Restraining Order And Preliminary Injunction ("Petition"). At the time of the filing of the Petition, BNSF was in the process of auctioning the locomotive that is the subject matter of this proceeding. In the Reply, BNSF informed the Board that, unless ordered otherwise by the Board, BNSF would restart the auction process and keep the Board apprised as the auction moves forward.

BNSF has restarted the auction process. Pursuant to the requirements of 49 C.F.R. § 1035, Appendix B, Section 4(b), BNSF published notice of the auction in the Fort Worth Star Telegram, the Baltimore Sun and The Oklahoman on May 10, 2009 and on May 17, 2009. The auction is scheduled to commence on May 25, 2009. A copy of the newspaper notice is attached.

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**If you have any questions, please contact me.**

**Sincerely yours,**

A handwritten signature in black ink, appearing to read "Karl Morell". The signature is fluid and cursive, with the first name "Karl" and last name "Morell" clearly distinguishable.

**Karl Morell**

**Enclosure**

**cc: James Riffin**  
**Edwin Kessler**

**LEGAL NOTICE:  
OFFICIAL NOTICE OF PUBLIC AUCTION.**

Notice is hereby given that BNSF Railway Company will hold a public auction on the World Wide Web at <http://auctions.bnsf.com>. The following vehicle will be offered for sale: 1954, Delta Valley & Southern Railway Locomotive, #50 (NO WARRANTIES EXPRESSED OR IMPLIED, INCLUDING NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE and on an "AS IS, WHERE IS" basis). All sales are final. This notice is being published pursuant to Section 4, Paragraph (b) of the Uniform Bill of Lading published in BNSF Tariff UFC 6000-Series. The consignee is Edwin Kessler, 1510 Rosemont Drive, Norman, Oklahoma 73072. This will be a sealed bid. Bids may be submitted beginning on Monday, May 25, 2009, at 10:00 AM Central Standard Time, and bidding concludes on Tuesday, May 26, 2009, at 4:00 PM Central Standard Time by only using BNSF's online public auction site. "BNSF Auction Source" accepts bids only from registered users. Bid specific information is provided on the Web site. To become a registered user, go to <http://auctions.bnsf.com/cgi-bin/auction.exe/edituse>, and fill out the online registration form. To participate in the auction, you must register no later than Friday, May 22, 2009, at 2:00 PM Central Standard Time.